

Message

From: Paula Maccabee [pmaccabee@justchangelaw.com]
Sent: 2/25/2016 12:19:31 AM
To: Downing, Donna [Downing.Donna@epa.gov]
Subject: Tribal Clean Water Act Section 401 Authority
Attachments: Maccabee_TribalCWA\$401_WilliamMitchell.L.Rev_2015.pdf;
ProcessProposalTribalCWA\$401(a)(2)_WilliamMitchell.L.Rev_2015.pdf

Hi Donna,

It was a pleasure talking with you this afternoon about tribal exercise of Clean Water Act Section 401(a)(2) authority. I share your sense that it would be helpful for the EPA to get ahead of the issue and provide a memo or other informal procedural guide to help regions and tribes implement exercise of Section 401(a)(2) by downstream tribes.

We briefly discussed the article I published in the William Mitchell Law Review this spring entitled *Tribal Authority to Protect Water Resources and Reserved Rights under Clean Water Act Section 401*. The article is available on line at <http://open.mitchellhamline.edu/wmlr/vol41/iss2/6/> and I've also attached a copy.

In the article, I discussed broader questions of tribal rights, but there are also some pragmatic recommendations for the process by which the EPA would support tribal exercise of Section 401(a)(2) authority. The section of the article that contains these process recommendations is excerpted and attached to this email. I would hope that this excerpt could provide a helpful framework for an EPA memo or other informal procedural guide explaining what steps the EPA would take to facilitate exercise of Section 401(a)(2) authority by downstream tribes.

Please let me know when you have reviewed the article and the 401(a)(2) process proposal excerpt. I'd be interested in your thoughts about what might be the best next steps to take to support the exercise of Section 401(a)(2) authority by downstream tribes and if there is any way in which I could be of assistance.

Best regards,
Paula

Paula Maccabee, Esq.
JUST CHANGE LAW OFFICES
1961 Selby Ave.
St. Paul MN 55104
phone: 651-646-8890
fax: 651-646-5754
Cell: 651-775-7128
e-mail: pmaccabee@justchangelaw.com
<http://www.justchangelaw.com>

Advocacy Director/Counsel for WaterLegacy